

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 10-16 are currently being amended. Support for the amendment to independent claim 10 can be found throughout the application, for example, on page 22, line 19 to page 23, line 24 and page 33, lines 2-9 of the specification.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-18 are now pending in this application, of which claims 1-9 and 18 are withdrawn from consideration.

Rejections under 35 U.S.C. § 102

Claims 10-12 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Publication 2001/0035939 to Mihashi et al. ("Mihashi '939"). Claims 10-11 and 13-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Publication 2003/0189690 to Mihashi et al. ("Mihashi '690"). Applicants respectfully traverse these rejections for at least the following reasons.

In the presently claimed invention, the optical performance is evaluated where not only lower order aberrations but also the higher order aberrations are considered. For example, the presently claimed invention calculates lower order aberration quantities such that a Strehl ratio becomes high and/or a phase shift becomes small. The Strehl ratio and the phase shift are based on aberrations which include lower order aberrations as well as higher order aberrations (See specification on page 24, line 5 - page 25, line 19 and page 27, line 18- page 28, line 9). Thus, the presently claimed invention allows for correction data of S (Sphere), C (Cylinder), A (axis), for example, based on calculated lower order aberration quantities, where the correction data is obtained from appropriate lower order aberrations which are changed considering the higher order aberrations. Thereby, it is possible to obtain a result which is closer to the subjective value (See specification on page 34).

In particular, independent claim 10 recites an arithmetic part which performs recited functions, and in particular “finds out, in a case where the higher order aberrations have the specified values or higher, lower order aberration quantities where a Strehl ratio becomes maximum or a phase shift (PTF) becomes substantially zero while the lower order aberration quantities corresponding to the defocus amount and/or the astigmatism component is changed slightly and, obtains, based on the found lower order aberration quantities in which the higher order aberrations are taken into consideration, appropriate correction data suitable for the subject eye.”

In contrast to claim 10, Mihashi ‘939 merely disclose an apparatus which displays lower order aberrations and higher order aberrations. Mihash ‘939, however, does not disclose or suggest changing and correcting lower order aberrations, much less taking into consideration the higher order aberrations.

Mihashi ‘690 also does not disclose or suggest changing and correcting lower order aberrations. While Mihashi ‘690 discloses a calculation section which calculates a Strehl ratio and outputs the calculation result to a display section (See paragraph [0071]), Strehl does not change lower order aberrations to maximize or otherwise modify the Strehl ratio. Thus, Mihash ‘690 does not disclose or suggest changing and correcting lower order aberrations, much less taking into consideration the higher order aberrations.

Dependent claims 11-17 depend either directly or indirectly from independent claim 10, and are patentable for analogous reasons, as well as for further patentable features recited therein.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment,

to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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